

SECOND REGULAR SESSION

SENATE BILL NO. 1041

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHMITT.

Read 1st time March 1, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4829S.02I

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to tax incentives for purchases of tangible business property by small businesses.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 135, RSMo, is amended by adding thereto one new
2 section, to be known as section 135.495, to read as follows:

**135.495. 1. As used in this section, the following terms shall
2 mean:**

3 **(1) "Eligible property", tangible personal property, the full cost
4 of which, a taxpayer may lawfully deduct in the year of purchase under
5 26 U.S.C. Section 179;**

6 **(2) "General revenue portion of state sales tax", the tax imposed
7 under subdivision (1) of subsection 1 of section 144.020, less one
8 percent;**

9 **(3) "State tax liability", in the case of a business taxpayer, any
10 liability incurred by such taxpayer under the provisions of chapters
11 143, 147, 148, and 153, exclusive of the provisions relating to the
12 withholding of tax as provided for in sections 143.191 to 143.265 and
13 related provisions, and in the case of an individual taxpayer, any
14 liability incurred by such taxpayer under the provisions of chapter 143;**

15 **(4) "Taxpayer", any eligible small business, as such term is
16 defined under 26 U.S.C. Section 44.**

17 **2. For all taxable years beginning on or after January 1, 2010, a
18 taxpayer shall be allowed a credit in an amount equal to one hundred
19 percent of the general revenue portion of state sales tax paid by such
20 taxpayer on eligible property during such taxable year. To the extent
21 the amount of the credit authorized under this section exceeds a**

22 taxpayer's state tax liability, such excess shall be treated as an
23 overpayment of tax and shall be refunded to the taxpayer. For a
24 taxpayer with flow-through tax treatment to its members, partners, or
25 shareholders, the credit shall be allowed to members, partners, or
26 shareholders in proportion to their share of ownership on the last day
27 of the taxpayer's tax period.

28 3. The director of the department of economic development and
29 the director of the department of revenue shall jointly administer the
30 tax credit authorized by this section. Both the director of the
31 department of economic development and the director of the
32 department of revenue are authorized to promulgate rules and
33 regulations necessary to administer the provisions of this section. Any
34 rule or portion of a rule, as that term is defined in section 536.010 that
35 is created under the authority delegated in this section shall become
36 effective only if it complies with and is subject to all of the provisions
37 of chapter 536, and, if applicable, section 536.028. This section and
38 chapter 536 are nonseverable and if any of the powers vested with the
39 general assembly pursuant to chapter 536, to review, to delay the
40 effective date, or to disapprove and annul a rule are subsequently held
41 unconstitutional, then the grant of rulemaking authority and any rule
42 proposed or adopted after August 28, 2010, shall be invalid and void.

43 4. Under section 23.253 of the Missouri sunset act:

44 (1) Any new program authorized under this section shall
45 automatically sunset six years after August 28, 2010, unless
46 reauthorized by an act of the general assembly; and

47 (2) If such program is reauthorized, the program authorized
48 under this section shall automatically sunset twelve years after the
49 effective date of the reauthorization of this section; and

50 (3) This section shall terminate on September first of the
51 calendar year immediately following the calendar year in which a
52 program authorized under this section is sunset.

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